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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,254	06/26/2006	G. Eric Engstrom	120083-137147	1806

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SEATTLE, WA 98101

EXAMINER
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DOAN, KIET M

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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11/02/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,254	<b>Applicant(s)</b> ENGSTROM, G. ERIC	
	<b>Examiner</b> KIET DOAN	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to applicant's remarks file on 07/09/2009.

Claims 1, 6, 7, 11-17 are amended.

### *Response to Arguments*

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7-9 and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata et al. (US 6,788,928 B2) in view of Villa-Real (US 4,320,767).

Consider claims 1, 7, 12 and 15. Kohinata teaches a wireless mobile phone comprising:

processor (Fig.1, operation control unit 12);

a transceiver coupled to the processor to facilitate wireless telephony communication by the user (Fig.1, transceiver unit 7);

a plurality of sensors to facilitate real time capturing of a heart beat profile of a user from the user's hand (Col.4, lines 31-39 teach temperature obtaining unit 15 contain by plurality of sensors arranged on the surface of cellular phone that capturing

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the body temperature of the user when touch by the palm or finger of the hand of the user);

operating logic to receive the real time captured heart beat profile of the user and to selectively operate the components depending on whether the user is successfully authenticated via a real time captured heart beat profile of the user (Col.4, lines 54-64, Col.5, lines 10-40, Col.6, lines 6-16 teach detecting the contact of the user with the cellular phone and judging/comparing with database that store threshold value in a storage unit 14 whether the user is authentication). Kohinata fails to explicitly teach “capturing **heart beat** profile”.

In an analogous art, Villa-Real teaches “pocket-size electronic cuffless blood pressure and pulse rate calculator with optional temperature indicator, time and memory”, further Villa-Real teaches the embodiment of the pocket-size electronic that capturing the pulse rate or heart rate of the user hand (see Col.6, lines 44-49, 62-67, Col.10, lines 4-6, Fig.1, Fig.4, Fig.7 and 11 show pocket-size electronic that capturing heart beat of the user)

Therefore, it would have been obvious at the time that the invention was made to modify Kohinata with Villa-Real’s system such that wireless mobile phone with sensors for capturing heart beat of the user hand and authenticated via real time captured heart beat of the user in order to provide secure and saving power of the mobile device.

Consider **claims 2 and 8**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 1, and (7) further Kohinata teaches wherein the

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operating logic further comprises logic to compare the real time captured heart beat profile of the user against a reference heart beat profile (Col.4, lines 54-67, Col.6, lines 6-16 teach comparing database).

Consider **claims 3 and 9**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 1, and (7) further Kohinata teaches wherein the operating logic further comprises logic to save the real time captured heart beat profile of the user as a reference heart beat profile for authentication (Fig.5, show memory 11 as save the real time captured heart beat/temperature data).

Consider **claims 13 and 16**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 12, and (15) further Kohinata teaches wherein the operating logic enables the components to provide first one or more functions, including a function to retrieve a bio-metric reference from a storage removably attached to the wireless mobile phone, while operating the components in said first mode, and further enables the components to provide second additional one or more functions, while operating the components in said second mode (Col. 6, lines 17-30, Col.7, lines 1-27 teach authorize user to access mobile device base on reading from Bio data/Tem. unit that allow the user to control or shifts different states)

Consider **claims 14 and 17**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 13, and (15) further Kohinata teaches wherein the

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bio-metric input comprises a heart beat profile of the user to be authenticated (Col.6, lines 17-29, Fig.5 show bio data unit 19 that wherein the bio-metric input and authentication unit 18 manage user or authorize user operate/access mobile device).

5. Claims 4, 5, 6 and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kohinata et al. (US 6,788,928 B2) in view of Villa-Real (US 4,320,767) and further view of Leduc (US 2004/0024706 A1).

Consider **claim 4 and 10**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 1, and (7) **but is silent on** wherein the wireless mobile phone further comprises a reader to facilitate provision of the reference heart beat profile via an identity card.

In an analogous art, **Leduc teaches** wherein the wireless mobile phone further comprises a reader to facilitate provision of the reference heart beat profile via an identity card (Paragraphs [0028], [0034] teach emergency device 10 is smart card that read and recording biomedical information of user).

Therefore, it would have been obvious at the time that the invention was made to modify Kohinata and Villa-Real with Leduc's system such that wherein the wireless mobile phone further comprises a reader to facilitate provision of the reference heart beat profile via an identity card in order to maintain/record data information of the user in a compact size.

Consider **claim 5**. The combination of Kohinata and Villa-Real and Leduc the wireless mobile phone of claim 4, further Leduc teaches wherein the reference heart beat profile is stored on said identity card in a manner to be read by a reader selected from the reader group consisting of an electronic reader, an optical reader, and a magnetic reader, and the wireless mobile phone further comprises the selected reader (Paragraphs [0028], [0036-0037], Fig.1, show smart card 10 as store data information).

Consider **claims 6 and 11**. The combination of Kohinata and Villa-Real teach the wireless mobile phone of claim 1, (7) further Leduc teaches wherein the wireless mobile phone further comprises a reader to facilitate retrieval of the reference heart beat profile from a storage, the storage removably attached to the wireless mobile phone (Paragraphs [0028], [0034]], Fig.1 show device 10 is a contact less smart card that storage medical information and removably attached to the wireless mobile phone).

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The examiner notice Patent “US **6,549,756 B1**” which is the same inventor “Eric Engstrom. Assignee: Xcoucin, Inc that teaching the same method of using mobile telephone for capturing heart beat.

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIET DOAN whose telephone number is (571)272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles N. Appiah can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kiet Doan/  
Examiner, Art Unit 2617

/Charles N. Appiah/  
Supervisory Patent Examiner, Art Unit 2617